



City of Seattle

Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
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**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2207042
Applicant Name: Mark Travers
Address of Proposal: 123 NW 36th Street

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to establish use for future construction of a 4-story (25,679 sq. ft.) office building. Parking to be provided for 64 vehicles below grade. (9802713)

The following approvals are required:

Shoreline Substantial Development Permit - to allow an office use in an Urban General (UG) shoreline environment (Section 23.60.788 Seattle Municipal Code).

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

 ☒ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition, or
 involving another agency with jurisdiction.

BACKGROUND DATA

Existing Conditions

The subject site is located in an Industrial Buffer Zone (IB U/45') and Urban General (UG) shoreline environment. The site is an upland lot north of NW Canal Street and Lake Washington

Ship Canal. The property is bounded to the north by NW 36th Street to the west by 2nd Ave. NW and to the south by 16 ft. wide improved alley. The subject site has an existing commercial building on the easterly portion. The area of the proposed construction is currently used as a surface parking lot. Properties located north of the project site and across NW 36th Street are zoned Commercial-1, with 40 ft. height limit (C-1/40'), the east of the project site is zoned IB U/45', and properties west of the project site are zoned IG2 U/65'. The properties located to the south across the 16 ft. wide improved alley and fronts on NW Canal Street (which is a designated bike path), are zoned IG2 U/85'. Residential uses in the immediate vicinity primarily consist of single family residences. Other uses include office, commercial and light manufacturing. The topography in the area gradually slopes down, south to the ship canal.

Proposal

The proposal is to allow the use and construction of a 27, 670 sq. ft. 4-story administrative office building. The project includes 3 levels of below grade parking for two structures for 64 spaces. Vehicular access would be provided via NW 36th Street on the north side of the project and the existing 16 ft. wide improved alley. Access to the alley is from 2nd Avenue NW. A two-foot (2 ft.) wide alley dedication is required for traffic circulation. Street trees will be planted in front of the property on the north side of NW 36th Street. The NW Canal Street is one-way street from west to east. The proposed project site is not abutting directly on NW Canal Street, there is no indication in the current proposal to change the status.

Public Comment

One signed petition letter and a comment letter were received during the comment period which ended January 3, 2003. One of the respondents was concerned with parking impact from the project. On the signed petition, the respondents oppose any attempt to change NW Canal Street to a two-way street. The reasons expressed by the majority of the respondents for their objection to the proposal are increased congestion, parking, traffic, noise, pedestrian safety impacts and general neighborhood impacts.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

A. *The policies and procedures of Chapter 90.58 RCW;*

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize,

insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The role of the Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SSMP 23.60.004, because the site is located within the shoreline district and the cost of the project exceeds \$5,000. The proposed two commercial/office buildings have been designed to meet City regulations which have been adopted to address environmental impacts. It is presumed that such regulations are adequate to achieve sufficient mitigation to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life. The construction of the commercial/office buildings on the two upland lots will not further interfere with the public rights of navigation and corollary rights, thus, providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the policies and procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shoreline area (SMC 23.60.064). In order to obtain a Shoreline Substantial Development Permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, and meets the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The proposal is located in an Urban General (UG) shoreline environment. The purpose of the UG environment is to provide for economic use of commercial and manufacturing areas which are not suited for full use by water-dependent businesses. The intent of the Industrial Buffer zone is to allow a broad range of uses where the industrial function of an area is less established than in IG zones, and where additional commercial activity could improve employment opportunities and the physical condition of the area, without conflicting with industrial activity. The construction of the commercial/office structure is consistent with both the UG shoreline environment and the IB policies. Therefore, the proposal is consistent with the shoreline policies of the City of Seattle.

The proposed project must meet the standards of the underlying industrial zone, be consistent with the uses permitted in the UG environment (Section 23.60.780), the development standards for the UG shoreline environment (Section 23.60.810) and the general development standards for all shoreline environments (Section 23.60.152). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (Section 23.60.064).

The proposed development must conform to the development standards of the IB zone. Standards for development in the IB zone such as height, lot coverage, setbacks, screening and landscaping requirements have been reviewed by DCLU to meet the development standards of SMC Chapter 23.45. With regard to the proposed use the applicant shall indicate a plan(s) for refuse collection and recycling activities, as well as appropriate screening of these uses from the street (NW Canal St.) and alley, per SMC 23.50.016C.

The proposal must conform to the development standards of the UG environment. The project was reviewed under Section 23.60.810. DCLU has determined the proposal meets development standards for height and lot coverage. Since views to the canal are not available and the proposal is an upland lot, view corridor and regulated public access requirements do not apply to this development.

The general standards found in Section 23.60.152 apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. Section 23.60.152 sets forth the general development standards with which all uses must comply, including best management practices. The proposed development is located on an upland lot. No work is proposed within or directly adjacent to the waters of statewide significance. Surface water will either infiltrate on site or be directed to an existing stormdrain line located within the street right-of-way. No surface water will be directly discharged to the nearby surface waters. The development must meet the requirements of the City's Storm water, Grading and Drainage Control Ordinance (SMC Chapter 22.800). Drainage and Grading plans must employ best management practices. Therefore, the proposal meets the general standards found in Section 23.60.152.

C. The provisions of Chapter 173-27 WAC.

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Thus, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Conclusion

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the Urban General shoreline environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, and therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is hereby approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development Permit is **GRANTED**.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant's agent (dated November 18, 2002) and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*", subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

Short-term Impacts

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction workers' vehicles. Several construction-related impacts are mitigated by existing City codes and

ordinances applicable to the project such as: The Noise Ordinance, the Stormwater, Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. Following is an analysis of the air, water quality, streets, parking, and construction-related noise impacts as well as mitigation.

The Street Use Ordinance includes regulations which mitigate dust, mud, and circulation. Temporary closure of sidewalks and/or traffic lane(s) is adequately controlled with a street use permit through the Seattle Department of Transportation (SDOT) and no further SEPA conditioning is needed.

Construction of the project is proposed to last for several months. Parking utilization along streets in the vicinity is moderate and the demand for parking by construction workers during construction could reduce the supply of parking in the vicinity. Although the scale of the project is moderate in size, this temporary demand on the on-street parking in the vicinity due to construction workers' vehicles may be adverse. In order to minimize adverse impacts, construction workers will be required to park on-site as soon as the garage is completed for the duration of construction.

The proposal sites are located near residential structures where construction of this scale would impact the noise levels. The SEPA Noise Policy (Section 25.05.675B SMC) lists mitigation measures for construction noise impacts. It is the Department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is necessary to mitigate impacts that would result from the proposal on surrounding properties, because existing City ordinances do not adequately mitigate such impacts. This is due to the density of residential units in the area and the close proximity of these structures to the proposal site. The proposal is, therefore, conditioned to limit demolition and construction activity to non-holiday weekday hours between 7:30 A.M. and 6:00 P.M. After the structure is enclosed, interior construction may be done in compliance with the noise ordinance. The Department may modify this condition to allow work of an emergency nature or which cannot otherwise be accomplished during these hours by prior written approval of the Land Use Planner.

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (Section 25.05.675 SMC). No unusual circumstances exist, which warrant additional mitigation, per the SEPA Overview Policy. However, Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality.

Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased surface water runoff from greater site coverage by impervious surfaces; increased bulk and scale on the site; increased demand on public services and utilities; increased light and glare; loss of vegetation; and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope.

The long-term impacts are typical of an office/commercial structure and will in part be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (stormwater runoff from additional site coverage by impervious surface); Land Use Code (height; setbacks; parking); and the Seattle Energy Code (long-term energy consumption). Additional land use impacts which may result in the long-term are discussed below.

Drainage

Rain water on roofs and on the driveways are the major sources of water runoff on the site. The rain water on the roofs will be collected in gutters and connected to the storm drainage system. Oil/water separators will be installed at the parking garage level. Therefore, drainage will be directed away from adjoining residential properties. No additional mitigation measures will be required pursuant to SEPA.

Height, Bulk, and Scale

The height of the proposed office building is approximately 45 feet to the top of the roof. City height and setback standards have been met; therefore no additional mitigation is warranted under SEPA. Adopted Land Use Codes attempt to protect private views through height and bulk controls and other zoning regulations, but no code authority is available to protect private views through project specific review. (SMC 25.05.675.P.1(f))

Traffic and Transportation

The primary uses on this site would be administrative offices. The Institute of Transportation Engineers (ITE) Trip Generation Manual estimates that office building generates 11.01 vehicle trips per day per 1,000 sq. ft. of gross floor area. Based on the estimates in the Trip Generation Manual, the building area totaling 25,679 sq. ft. would generate approximately 282 vehicle trips per day with 39 trips during the a.m. peak hour and 38 trips in the p.m. hours. The availability and proximity of transit to downtown Seattle and connections with buses to outlying areas would make it likely that there would be fewer vehicle trips than from developments in outlying areas on which the ITE generation equation is based. The site has ready access to NW 36th Street and the alley. The volume of traffic along NW 36th Street is moderately high but nearby intersections operate at acceptable levels. The amount of traffic expected to be generated by the proposed project is well within the capacity of the streets in the immediate area and no SEPA mitigation of traffic impacts is warranted. Therefore, no additional traffic mitigation pursuant to SEPA will be required.

Parking

The Institute of Transportation Engineers (ITE) Parking Generation Manual 2nd Edition estimates that the parking demand generated by the 25,679 sq. ft. of office space would be 71 parking spaces. The demand calculation includes the existing building and the loss of the parking lot. On-site parking for 64 vehicles is proposed. There will be 7 spillover parking. The availability and proximity of transit to downtown and bus connections to other areas will make it likely that

there will be less demand for parking than from projects in outlying areas on which the ITE generation equation is based. The parking policy in Section 25.05.675M of the Seattle SEPA Ordinance states that parking impact mitigation may be required only where on-street parking is at capacity as defined by the Seattle Transportation Department or where the development itself would cause on-street parking to reach capacity. Parking utilization in the vicinity appears to be below capacity and on-street parking can be found during the daytime or evening hours. The 64 proposed parking spaces provided on-site meet the code requirement and are expected to accommodate the parking demand generated by the project. Therefore, no mitigation of parking impacts is necessary pursuant to SEPA.

Summary

In conclusion, several adverse effects on the environment are anticipated resulting from the proposal, which are non-significant. The conditions imposed below are intended to mitigate specific impacts identified in the foregoing analysis, or to control impacts not regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

During Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DCLU. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other weatherproofing material and shall remain in place for the duration of construction.

1. In order to further mitigate the noise impacts during construction, the owner(s) and/or responsible party(s) shall limit the hours of construction to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. This condition may be modified by the Department to permit work of an emergency nature or to allow low noise exterior work (e.g., installation of landscaping) after approval from the Land Use Planner. After the structures are enclosed, interior work may proceed at any time in compliance with the Noise Ordinance.
2. Construction workers will be required to park on-site as soon as the garage is completed.

Signature: _____ (signature on file) Date: February 13, 2003
Onum Esonu, Supervisor, Public Resource Center
Department of Design, Construction and Land Use
Land Use Services

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